

REMARKS

Claims 21-22 are pending in the application. No claim is allowed.

Claims 21-22 are rejected under 35 USC 103(a) as allegedly being unpatentable over Brekke, et al. (WO 94/09722, "Brekke"). Applicants respectfully traverse the rejection and request that it be reconsidered and withdrawn.

The Examiner relies upon Brekke to show composition for treatment of bone. It is submitted that upon a careful reading of Brekke, several elements are required in order to induce bone formation. First, one must have structural competence, that is, a gross structure to provide a mechanical support and structural surface for the dynamic biological processes for genesis, growth and development of new non-calcified and calcified connective tissue. This function is served by the biologically acceptable, biodegradable polymer arranged as a one piece porous body with enclosed randomly sized, randomly positioned and randomly shaped interconnecting voids, each void communicating with all of the others, and communicating with substantially the entire exterior of the body. Next there must be a microstructure composed of the chemotatic ground substance, which can be hyaluronic acid. The hyaluronic acid is used as a solid material, a velour composed of fibrils with intercalated voids of microscopic dimensions. Thirdly, Brekke requires the osteoinductive/osteogenic substance which is a growth factor. These requirements dictate the use of a solid composition as shown in Brekke's FIGS. 1-6, and described on page 20, lines 18-26.

However, the presently claimed method requires the use of an injectable composition. See Specification, page 3, lines 18-25. The useful injectable composition is advantageous because it need not be molded into a solid that precisely fits the space in the bone. See Brekke, p. 24, lines 29-34.

Therefore it is submitted that the teaching of the methods in Brekke to one of ordinary skill in the art would be that in order to induce the growth of bone, one needs the macrostructure, and possibly also the microstructure, of the device in Brekke. This is a teaching away from the presently claimed method using a viscous, injectable composition.

For the foregoing reasons it is submitted that the claims are unobvious under 35 103(a) over Brekke and reconsideration and withdrawal of the rejection are requested.

Respectfully submitted,
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